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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

MAXELL, LTD.,

*Plaintiff,*

v.

APPLE INC.,

*Defendants.*

Civil Action No. 5:19-cv-00036

**JURY TRIAL DEMANDED**

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**MAXELL, LTD.'S MOTION FOR SUMMARY JUDGMENT OF NO INVALIDITY  
UNDER 35 U.S.C. §§ 102 AND 103 OF CLAIMS 7, 16, AND 17 OF  
U.S. PATENT NO. 10,212,586**

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**I. INTRODUCTION**

Maxell moves for summary judgment of no invalidity of the asserted claims of U.S. Patent No. 10,212,586 (Ex. 1,<sup>1</sup> “the ’586 Patent”) because Apple’s only prior art reference relied on fails to disclose the “memory” limitations in the asserted claims. Under these circumstances, Apple cannot meet its steep burden of proving invalidity at trial, and summary judgment of no invalidity under 35 U.S.C. §§ 102 and 103 is warranted.

**II. LEGAL STANDARD****A. Summary Judgment**

Summary judgment shall be rendered when there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-25 (1986); *Ragas v. Tenn. Gas Pipeline Co.*, 136 F.3d 455, 458 (5th Cir. 1998). If the moving party has made an initial showing that there is no evidence to support the nonmoving party’s case, the party opposing the motion must assert competent summary judgment evidence of the existence of a genuine fact issue. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *ThinkOptics, Inc. v. Nintendo of Am., Inc.*, No. 6:11-cv-455, 2014 U.S. Dist. LEXIS 91036, at \*5 (E.D. Tex. July 3, 2014). Mere conclusory allegations, unsubstantiated assertions, improbable inferences, and unsupported speculation are not competent summary judgment evidence. *See Eason v. Thaler*, 73 F.3d 1322, 1325 (5th Cir. 1996); *Forsyth v. Barr*, 19 F.3d 1527, 1533 (5th Cir. 1994). Summary judgment must be granted if the nonmoving party fails to make a showing sufficient to establish the existence of an element essential to its case and on which it will bear the burden of proof at trial. *Celotex*, 477 U.S. at 322-23.

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<sup>1</sup> References to “Ex.” throughout this brief refer to the Declaration of Michael L. Lindinger filed concurrently herewith.

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